

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FERNANDO PADRON RODRIGUEZ,)

Petitioner,)

3:02-cv-00236-ECR-VPC

vs.)

ORDER

E.K. MCDANIEL, *et al.*,)

Respondents.)

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding with counsel. The matter is currently on appeal at the Ninth Circuit Court of Appeals as case number 09-17171. On October 31, 2011, respondents filed a motion for substitution of respondents (ECF No. 82) indicating that Renee Baker was the proper respondent.

Because this Court lost jurisdiction over the matter upon the docketing of the appeal, this motion shall be transferred to the Court of Appeals for its consideration. *Mayweathers v. Newland* 258 F.3d 930, 935 (9th Cir. 2001) citing *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379, 105 S.Ct. 1327, 84 L.Ed.2d 274 (1985) (“In general, filing of a notice of appeal confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.”).

1 **IT IS THEREFORE ORDERED** that the Clerk shall transmit the Motion for
2 Substitution of Respondent (ECF No. 82) to the Court of Appeals for its consideration.

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4 DATED this 3rd day of November, 2011.

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6 UNITED STATES DISTRICT JUDGE
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